

17:16J-1 to 17:16J-21

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:16J-1 to 17:16J-21

(Banks, savings banks, S & L's---mergers---Commissioner of Banking may approve)

LAWS OF: 1982

CHAPTER: 8

Bill No: S1076

Sponsor(s): Gregorio and others

Date Introduced: February 25, 1982

Committee: Assembly: ---

Senate: Labor, Industry and Professions

Amended during passage: ///

No Substituted for A1042 (not attached since identical to S1076)

Date of Passage: Assembly: March 1, 1982

Senate: February 25, 1982

Date of Approval: March 4, 1982

Following statements are attached if available:

Sponsor statement:		Yes	
Committee statement:	Assembly	///	No
	Senate	Yes	//
Veto Message:		///	No
Message on Signing:		Yes	//
Following were printed:			
Reports:		Yes	//
Hearings:		///	No

Annual report, mentioned in committee statement:

974.901 New Jersey Department of Banking.

B23

A report of the Commissioner of Banking pursuant to P.L. 1982, c.8 concerning supervisory acquisitions and supervisory mergers during calendar year 1982... August 22, 1983. Trenton, 1983.

DO NOT WRITE IN THESE SPACES

SENATE, No. 1076

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 25, 1982

By Senators GREGORIO, SAXTON, ORECHIO, PERSKIE,
DiFRANCESCO, BORNHEIMER, O'CONNOR and CARDINALE

Referred to Committee on Labor, Industry and Professions

AN ACT concerning the merger or acquisition of certain depository
institutions and supplementing Title 17 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. For the purposes of this act:

2 a. "Acquired depository" is a depository which is acquired as a
3 result of a supervisory acquisition as provided in this act;

4 b. "Acquiring company" is a company which acquires one or
5 more depositories as a result of a supervisory acquisition as pro-
6 vided in this act;

7 c. "Acquiring depository" is a depository which acquires one or
8 more depositories as a result of a supervisory acquisition as pro-
9 vided in this act;

10 d. "Association" means a state chartered or federally chartered
11 mutual savings and loan association or building and loan associa-
12 tion which has its principal office in this State;

13 e. "Bank" means a state chartered or federally chartered bank
14 which has its principal office in this State;

15 f. "Capital stock association" means an association organized
16 pursuant to the provisions of P. L. 1974, c. 137 (C. 17:12B-244
17 et seq.), or a federally chartered capital stock association which
18 has its principal office in this State;

19 g. "Capital stock savings bank" means a savings bank organized
20 pursuant to the provisions of P. L. ..., c. ... (C.)
21 (now pending in the Legislature as Assembly Bill No. 1041 and

22 Senate Bill No. 1077 of 1982), or a federally chartered capital stock
23 savings bank with its principal office in this State;

24 h. "Commissioner" means the Commissioner of Banking;

25 i. "Company" means (1) a corporation which is approved by
26 the Board of Governors of the Federal Reserve System as a bank
27 holding company, the operations of whose banking subsidiary or
28 subsidiaries are principally conducted in this State, and which owns
29 at least 25% of the stock of a bank in this State, or (2) a corpora-
30 tion which is approved by the Federal Home Loan Bank Board
31 as a capital stock association holding company, the operation of
32 whose subsidiary association or associations are principally con-
33 ducted in this State, and which owns at least 25% of the stock of
34 a capital stock association in this State;

35 j. "Department" means the Department of Banking;

36 k. "Depository" and "depository institution" means a state
37 chartered and a federally chartered corporation with its principal
38 office in this State which is authorized by the laws of this State or
39 of the United States to receive deposits, and includes only banks,
40 savings banks, associations, capital stock savings banks, and capital
41 stock associations;

42 l. "Foreign depository" means a state chartered or federally
43 chartered depository with its principal office in a state other than
44 this state (1) which is empowered to receive deposits; (2) whose
45 deposits are insured by the Federal Deposit Insurance Corporation,
46 the Federal Savings and Loan Insurance Corporation, any other
47 instrumentality of the United States, or any other state-approved
48 insurance program, which is organized for the purpose of insuring
49 time ad demand deposits; and (3) which is empowered by the laws
50 of the United States or the state of its domicile to merge into or
51 acquire similar institutions organized under the laws of the other
52 states of the United States;

53 m. "Merging depository" means a depository which merges into
54 or is to be merged into one or more other depositories as provided
55 in this act;

56 n. "Mutual depository" means an association or a savings bank
57 as defined in subsections d. or q. of this section;

58 o. "Receiving depository" means a depository into which one or
59 more depositories are merged or are to be merged as provided in
60 this act;

61 p. "Resulting depository" is a depository which is created by the
62 merger of two or more depositories;

63 q. "Savings bank" means a state chartered or federally char-
64 tered mutual savings bank which has its principal office in this
65 State;

66 r. "Supervisory acquisition" means the acquisition of a deposi-
67 tory to be operated as a subsidiary pursuant to the provisions of
68 section 2 or 3 of this act;

69 s. "Supervisory merger" means a merger, consolidation or
70 purchase of assets and assumption of liabilities effected under the
71 conditions prescribed by section 2 or 3 of this act;

1 2. The commissioner may, if he deems it to be in the public
2 interest, authorize a supervisory acquisition by a company or a
3 supervisory acquisition or supervisory merger between two or more
4 depositories under the terms and conditions established by this
5 act if at least one of the depositories to be merged or acquired:

6 a. Has, in the opinion of the commissioner, a ratio of capital
7 stock, surplus, undivided profits, and reserves to total assets which
8 is declining to the extent that the ratio would reach a level of 2%
9 or less within the ensuing 12 months; or

10 b. Does not have sufficient funds, as determined by the commis-
11 sioner, to meet the liabilities and obligations of the depository
12 during the ensuing 12 months.

1 3. The commissioner shall have the authority to direct a deposi-
2 tory to merge into or be acquired by another depository or a
3 company only if the depository to be merged or acquired meets
4 one of the following tests:

5 a. The depository has, in the opinion of the commissioner, a
6 ratio of capital stock, surplus, undivided profits, and reserves to
7 total assets which is declining to the extent that the ratio would
8 reach a level of 1% or less within the ensuing 12 months; or

9 b. The depository does not have sufficient funds, as determined
10 by the commissioner, to meet the liabilities and obligations of the
11 depository during the ensuing 6 months.

1 4. a. The commissioner shall give priority to a proposal for
2 supervisory acquisition of a depository over a proposal for super-
3 visory merger, if the acquisition would be deemed by him to be
4 feasible and to result in the successful operation of the acquired
5 depository.

6 b. The commissioner shall give priority to supervisory acquisi-
7 tions by or supervisory mergers with like institutions, without
8 regard as to whether the like institutions are stock or mutual, if the
9 acquisition or merger is deemed by him to be feasible and to result
10 in the successful operation of the acquired or resulting depository.

11 c. In the case of a supervisory merger or supervisory acquisition
12 involving two or more depositories, the commissioner shall take
13 into account the relative sizes of the depositories involved.

1 5. If a supervisory acquisition is to take place, two-thirds of

2 the members of the boards of directors or managers of each com-
3 pany or depository which seeks to acquire another depository
4 pursuant to this act, and two-thirds of the members of the board
5 of directors or managers of a depository which is to be acquired
6 shall authorize the execution of a plan of acquisition, which shall
7 be submitted to the commissioner and which shall contain:

8 a. The name and address of the acquiring company or depository;

9 b. The name and address of the depository or depositories to
10 be acquired;

11 c. The name by which the acquired depository will be known
12 after the acquisition is effected;

13 d. The names of the persons who are directors or managers of
14 the acquiring company or depository;

15 e. The names of the persons who will be directors or managers
16 of the acquiring company or depository;

17-19 f. The names of the persons who will be directors of the acquired
20 depository;

21 g. The names of the persons who will be officers of the acquired
22 depository;

23 h. The location then occupied by the principal offices and branches
24 of the acquired depository;

25 i. The location at which the principal office and the branch offices
26 of the acquired depository are to be maintained;

27 j. The effective date of the acquisition;

28 k. If the acquired depository will be a stock depository, the
29 amount of the capital stock, the classes of stock to be issued, the
30 number of shares into which it will be divided, the par value, if any,
31 of each share, and the amount of surplus which the acquired depository
32 will have after the acquisition is effected;

33 l. If the acquired depository is to be a mutual depository, the
34 amount of reserves, surplus, and capital deposits which it will have
35 after the acquisition is effected;

36 m. The terms and conditions of the acquisition, and the mode of
37 carrying it into effect, including the manner of exchanging the
38 shares, capital notes, or cash of the acquired depository or the
39 means of effecting the bulk purchase of assets of the acquired
40 depository;

41 n. If an acquiring mutual depository or an acquired mutual
42 depository is to convert to stock as an incident of the acquisition,
43 the basis upon which the conversion will be effected;

44 o. The names and addresses of all depositories some or all of
45 whose shares of capital stock are owned by the acquiring depository
46 or company, with the total number of shares of each depository

47 issued and outstanding, and the number of shares of each deposi-
48 tory owned by the acquiring company or acquiring depository;

49 p. Any other provision which may be necessary to effect the
50 acquisition.

51 The commissioner, if he deems the supervisory acquisition to be
52 in the public interest, may waive the provisions of any law or
53 regulation pertaining thereto, including but not limited to any
54 regulation which would restrict the purchasing institution's ability
55 to make the purchase because the cost of the acquisition would
56 exceed an established percentage of the purchasing institution's
57 capital stock and surplus. The acquired depository shall be a sub-
58 sidiary and shall be governed by any laws under which organized.

59 If, after the initial acquisition, the parent depository or company
60 desires to effect a merger with the subsidiary depository it shall
61 make application for a merger which may be approved by the
62 commissioner if he deems it to be in the public interest. The merger
63 shall be effected pursuant to the provisions of this act, except that
64 the subsidiary depository need not meet the test established by
65 section 2 of this act.

1 6. If a supervisory merger pursuant to section 2 or 3 of this act
2 is to take place, two-thirds of the members of the board of directors
3 of a bank, association, or a capital stock association, or two-thirds
4 of the members of the board of managers or directors of a savings
5 bank or a capital stock savings bank, as the case may be, who are
6 parties to the merger, shall authorize the execution of the merger
7 agreement, which shall be submitted to the commissioner and which
8 shall contain:

9 a. The name of each merging depository, and the location of its
10 principal office and branch offices;

11 b. The name of the receiving depository and the location of its
12 principal office and branch offices;

13 c. The name by which the resulting depository will be known
14 after the merger is effected;

15 d. The names of the persons who will be directors or managers
16 of the resulting depository;

17 e. The names of the persons who will be officers of the resulting
18 depository;

19 f. The location at which the principal office of the resulting
20 depository is to be maintained;

21 g. The locations then occupied by the principal offices and branch
22 offices of the merging and receiving depositories which will be
23 continued as branch offices of the resulting depository;

24 h. The effective date of the merger;

25 i. If the resulting depository will be a capital stock depository,
26 the amount of the capital stock, the classes of stock to be issued,
27 the number of shares into which it will be divided, the par value,
28 if any, of each share, and the amount of surplus which the resulting
29 depository will have after the merger is effected;

30 j. If the resulting depository will be a mutual depository, the
31 amount of reserves, surplus, and capital deposits which the result-
32 ing depository will have after the merger is effected;

33 k. If the resulting depository is to be a capital stock depository,
34 the basis upon which the bulk transfer of assets or shares of each
35 merging depository will be exchanged for shares of the capital
36 stock of a depository or a company, or for capital notes, or for
37 cash, or for any one or more or all of the foregoing, as the case may
38 be;

39 l. If the resulting depository is a mutual depository, the basis
40 upon which a sale or bulk transfer of assets is to be accomplished;

41 m. If a mutual depository is to convert to a stock depository
42 attendant to the merger, the basis upon which the conversion will
43 be effected;

44 n. Any other provisions which may be necessary or appropriate
45 to effectuate the merger.

1 7. If a mutual depository is a party to a supervisory merger or
2 a supervisory acquisition, the merger agreement or plan of acqui-
3 sition shall also contain:

4 a. A provision that each depositor of a mutual depository shall
5 have an account in the resulting or acquired depository equal in
6-7 amount to the depositor's account in the mutual depository;

8 b. If the supervisory merger or supervisory acquisition results
9 in the conversion of a mutual depository to a stock depository, a
10 provision setting forth the participation, if any, by officers, direc-
11 tors, and employees of the mutual depository and their associates
12 in the cash, capital stock or capital notes of the receiving, resulting,
13 or acquired depository or company or in other products of the
14 merger or acquisition, which shall be subject to the approval of
15 the commissioner. The term "associate," as used in this paragraph,
16 means parents, spouse, sisters, brothers, children, and the spouse
17 of any of the foregoing persons; any corporation of which the
18 person is an officer, director or owner of more than 10% of the
19 outstanding voting stock of the corporation; any trust of which the
20 person is a trustee or substantial beneficiary; and any partnership
21 in which the person is a general or limited partner. The interests
22 of the directors, officers, employees, and associates shall be dis-
23 closed in the application for merger or acquisition filed with the

24 commissioner. Each depositor of the merging mutual depository
25 as of the date of merger or acquisition shall receive any rights with
26 respect to the capital stock of the receiving, resulting, or acquired
27 depository or company, or other products of the merger or acqui-
28 sition as may be approved by the commissioner, and these rights
29 shall be consistent with the provisions of federal law for federally
30 chartered mutual depositories.

1 8. In the event of a merger of two mutual depositories or the
2 conversion of a mutual depository to a capital stock depository
3 which is related to a supervisory merger or supervisory acqui-
4 sition, the merger agreement or plan of acquisition may provide for
5 the establishment and maintenance of a liquidation account for the
6 benefit of the account holders of the merging or converted mutual
7 depository in the event of the subsequent liquidation of the result-
8 ing or acquiring depository. The account shall be in an amount
9 approved by the commissioner, and shall be maintained by the
10 resulting or acquired depository for a length of time determined
11 by the commissioner. Payment to depositors entitled to an interest
12 in the liquidation account shall be made in a manner prescribed by
13 the commissioner.

1 9. A merger agreement shall provide for supervisory mergers by
2 any one, or by any combination of, or by all of the following
3 methods:

3 a. The exchange of shares of capital stock of each merging
4 depository for shares of capital stock of the receiving or resulting
5 depository;

6 b. The exchange of shares of capital stock of each merging
7 depository for shares of capital stock of a company;

8 c. The exchange of shares of capital stock of each merging
9 depository for capital notes or mutual capital certificates of the
10 receiving or resulting depository;

11 d. The exchange of shares of capital stock of each merging
12 depository for cash or mutual capital certificates received from the
13 receiving or resulting depository or company;

14 e. The exchange of shares of capital stock of each merging
15 depository for the capital notes of a company when the receiving
16 depository is a subsidiary of the company;

17 f. The transfer, sale, or exchange of all or any part of the assets
18 of a depository to the receiving depository for cash, capital stock,
19 mutual capital certificates, or accounts;

20 g. Any other method approved by the commissioner.

1 10. Each depository which is a party to a supervisory merger or
2 a supervisory acquisition shall submit to the commissioner: a. an

3 executed merger agreement or plan of acquisition approved by
 4 resolution of the board of directors or board of managers; and b.
 5 any other information which the commissioner deems necessary to
 6 complete the application for a supervisory merger or a supervisory
 7 acquisition. Upon the approval of the merger agreement or plan
 8 of acquisition by the commissioner, the merger agreement or plan
 9 of acquisition, endorsed by each party to the merger or acquisi-
 10 tion as being duly approved by the board, shall be filed with the
 11 department. Each depository which is a bank, capital stock savings
 12 bank, or capital stock savings and loan association shall mail a
 13 copy of the merger agreement or plan of acquisition to each of its
 14 stockholders.

1 11. If the commissioner approves the merger agreement or plan
 2 of acquisition it shall be submitted to the stockholders of each
 3 merging party or each party to an acquisition which is a bank, a
 4 capital stock savings bank, or a capital stock association, at sepa-
 5 rate meetings called for that purpose within a time period estab-
 6 lished by the commissioner. The merger agreement or plan of
 7 acquisition shall be approved by the stockholders of each capital
 8 stock depository holding at least two-thirds of the capital stock
 9 entitled to vote, and that fact shall be certified to the commissioner
 10 by the president or vice president.

11 A stockholder of a depository which is a bank of capital stock
 12 savings bank which is a party to a supervisory merger shall have
 13 the same rights afforded to stockholders by sections 140 through
 14 145 of P. L. 1948, c. 67 (C. 17:9A-140 to 17:9A-145). A member of
 15 an association or a stockholder of a capital stock association which
 16 is a party to a supervisory merger shall have the same rights
 17 afforded to members of associations and stockholders of capital
 18 stock associations by section 199 of P. L. 1963, c. 144 (C.
 19 17:12B-199) and section 36 of P. L. 1974, c. 137 (C. 17:12B-266).
 20 A stockholder of a bank or capital stock savings bank which is a
 21 party to a supervisory acquisition shall have the same rights
 22 afforded to stockholders by sections 6 through 15 of P. L. 1969,
 23 c. 118 (C. 17:9A-360 to 17:9A-369).

1 12. The merger shall become effective upon the last to occur of
 2 the following:

3 a. In the case of a mutual depository, on the date the approved
 4 merger agreement or plan of acquisition is filed with the depart-
 5 ment as provided in section 10 of this act;

7 b. In the case of a capital stock depository, on the date the
 8 stockholders' vote is certified to the commissioner as provided in
 9 section 11 of this act; or

10 c. Where required, all necessary federal approvals have been
11 obtained or waived.

1 13. Upon the merger of one depository institution into another,
2 and after the merger agreement is approved, endorsed and filed:

3 a. The corporate existence of the merging depository shall be
4 merged into that of the receiving depository, and all its rights,
5 privileges and franchises, and its right, title and interest in and
6 to all property of whatever kind, whether real, personal or mixed,
7 and things in action, and every right, privilege, interest or asset
8 of value or benefit then existing which would inure to it under an
9 unmerged existence, shall be transferred to and vested in the
10 depository into which it has merged, without further act or deed
11 and without any right of reversion. The resulting depository shall
12 have and hold the same in its own right as fully as the same was
13 possessed and held by the merging depository;

14 b. The rights, liabilities, obligations and relations of the merging
15 depository to any person shall remain unimpaired, and the result-
16 ing depository shall, by the merger, succeed to all the relations,
17 obligations, and liabilities, as though it had itself assumed or
18 incurred them. No obligation or liability of a member, depositor,
19 or stockholder of a depository which is a party to a merger shall
20 be affected by the merger, but the obligations and liabilities shall
21 continue as they existed before the merger;

22 c. A pending action or other judicial proceeding to which a
23 merging depository is a party shall not abate or be discontinued
24 by reason of the merger, but may be prosecuted to final judgment
25 order or decree as if the merger has not been effected, or the
26 resulting depository may be substituted as a party to the action or
27 proceeding, and any judgment, order or decree may be rendered for
28 or against it that might have been rendered for or against the
29 other depository if the merger had not occurred;

30 d. Notwithstanding the provisions of any other law, the resulting
31 depository shall, unless otherwise authorized by the commissioner,
32 establish and maintain its principal office and branch offices at the
33 locations specified in the merger agreement; and

34 e. If the merging depository provides trust services, all fiduciary
35 and agency duties and relationships of the merging depository
36 shall vest in the resulting depository and be performed by it in the
37 same manner as though the resulting depository itself originally
38 assumed the fiduciary agencies and relationships.

1 14. Any state chartered depository may purchase or otherwise
2 acquire one or more foreign depositories to the same extent and in
3 the same manner that a federally chartered depository having its

4 principal office in this State may purchase or otherwise acquire
5 one or more foreign depositories. This acquisition shall be subject
6 to the approval of the commissioner, who in so doing shall apply
7 standards similar to those to be applied by the applicable federal
8 regulatory authority in the event of acquisition by a federal
9 depository.

1 15. In the case of a supervisory merger, the commissioner may
2 authorize a State chartered depository to merge into, consolidate
3 with, or sell its assets and transfer its liabilities to a federally
4 chartered depository which has its principal office in this State,
5 pursuant to the provisions of federal law, and notwithstanding any
6 restriction or prohibition under the laws of this State. The provi-
7 sions of sections 5 through 14 of this act shall not apply to a
8 supervisory merger pursuant to the provisions of this section.

1 16. To protect the interest of the depositors of any depository
2 in a supervisory merger or acquisition, the commissioner may
3 waive the provisions of this or any other law or regulation if he
4 deems it necessary to effectuate the purposes of this act. With
5 respect to stockholders of a depository which is a party to a
6 supervisory merger or supervisory acquisition, if the commissioner
7 waives the stockholder voting provisions of this act, he shall require
8 that the merger agreement include a provision which will provide
9 stockholders with substantially the same right of dissent and
10 appraisal of their shares which they would have had if the merger
11 or acquisition had been effected without a waiver of the stock-
12 holders' vote.

1 17. Nothing in this act is intended to authorize the merger by or
2 the acquisition of stock or the assets of a depository by a foreign
3 depository, or a company other than as defined in subsection i.
4 of section 1 of this act.

1 18. Nothing in this act shall be deemed to limit any power other-
2 wise granted to the commissioner or to any depository by law.

1 19. The commissioner shall not be subject to any civil liability or
2 penalty nor to any criminal prosecution for any error in judgment
3 or discretion in any action taken or omitted by him in good faith
4 under the provisions of this act.

1 20. The commissioner may promulgate rules and regulations
2 necessary to effectuate the purposes of this act.

1 21. The commissioner shall provide a written annual report to
2 the chairmen of the Assembly Banking and Insurance Committee
3 and the Senate Labor, Industry and Professions Committee, or
4 their successors, setting forth the nature and general terms and

5 conditions of any supervisory merger or supervisory acquisition
6 effectuated pursuant to the provisions of this act during the pre-
7 ceding year. The report shall be provided to the chairmen each
8 year following the effective date of this act.

1- 22. This act shall take effect immediately.

STATEMENT

The purpose of this bill is to give the Commissioner of Banking the right to approve acquisitions or mergers among banks, savings banks and savings and loans. This will give the commissioner a tool to maintain New Jersey institutions as State chartered institutions, thereby preserving the dual banking system as well as keeping New Jersey moneys in New Jersey.

Such acquisitions and mergers are designated "supervisor acquisitions" and "supervisory mergers," and take place under certain conditions. One of the depositories must have a ratio of reserves, surplus, and equity capital to assets which is declining to the extent that the ratio would reach a level of 2% or less within a 12 month period, or the funds on hand are determined by the commissioner to be insufficient to meet the liabilities and obligations of the depository during the ensuing 12 month period.

If an acquisition is to take place, this bill establishes that a bank, savings bank, or savings and loan association or holding company of same, could acquire another institution as a subsidiary. This permits, for example, a commercial bank to acquire a savings and loan and continue to operate it as a savings and loan. The subsidiary would continue to operate under the law under which it was originally organized and its depositors would retain their existing relationship to the institution. A "supervisory acquisition" will have priority over "supervisory mergers" in order to help preserve the thrift industry. This legislation also provides a mechanism whereby mutual institutions can be merged into stock institutions and stock institutions into mutual institutions. In the case of a merging mutual institution, the legislation provides for the establishment of a liquidation account to protect the depositors' interest in the assets of the institution. If, after the acquisition is complete, the receiving institution desires a merger with the acquired institution, it may, if it is in the public interest and has the commissioner's approval.

If a merger is to take place, the troubled institution is completely absorbed by the receiving institution. The rights, liabilities, obligations and relations of the merging depository remain unimpaired

and the resulting institution must assume responsibility for the same.

In order to protect the depositors of the institutions and expedite the merger or acquisition, the commissioner has the right to waive any provisions of this act, or any other act, or any rules and regulations in an emergency situation.

The commissioner has the authority to direct an institution to be merged or acquired if the institution's ratio of reserves, surplus and equity capital to assets reach 1% or less within a 12 month period or the funds on hand are determined by the commissioner to be insufficient to meet the liabilities and obligations of the depository during the ensuing 6 month period.

The legislation requires the commissioner to make an annual report to the Assembly Banking and Insurance Committee and the Senate Labor, Industry and Professions Committee which sets forth the supervisory mergers and acquisitions which have taken place in the preceding year.

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SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
SENATE, No. 1076

STATE OF NEW JERSEY

DATED: FEBRUARY 25, 1982

This bill allows the Commissioner of Banking to approve a supervisory acquisition or a supervisory merger involving two or more banks, savings banks or savings and loans under certain circumstances.

In a supervisory acquisition or merger pursuant to section 2 of this bill, one of the depositories must have a ratio of reserves, surplus and equity capital to assets which is declining to the extent that the ratio would reach a level of 2% or less within a 12-month period or a deficiency in the funds on hand, as determined by the commissioner, to be insufficient to meet the liabilities and obligations of the depository during the ensuing 12-month period.

Pursuant to section 3 of this bill, the commissioner has the authority to direct a supervisory acquisition or merger if the depository's ratio of reserves, surplus and equity capital to assets reach 1% or less within a 12-month period or the funds on hand, as determined by the commissioner, are insufficient to meet the liabilities and obligations of the depository during the ensuing 12-month period.

Under the provisions of section 4 of the bill, a supervisory acquisition has priority over a supervisory merger; a supervisory acquisition or merger of like institutions has priority over the acquisition or merger of dissimilar institutions; and the commissioner must take into consideration the relative size of the institutions involved in a supervisory acquisition or merger.

In a case where a supervisory acquisition is to take place, this bill establishes that a bank, savings bank, or savings and loan association or holding company of same, may acquire the other depository as a subsidiary. This would allow, for example, a commercial bank to acquire a savings and loan and to continue to operate it as a savings and loan. The subsidiary would continue to operate under the law under which it was originally organized and its depositors would retain their existing relationship to the institution. If, after the acquisition is complete, the receiving depository desires a merger with the acquired depository, it may do so if it is in the public interest and the commissioner approves.

If a supervisory merger is to take place, the troubled depository is

completely absorbed by the receiving institution. The rights, liabilities, obligations and relations of the merging depository would remain unimpaired and the resulting institution must assume responsibility for the same.

In order to protect the depositors of the institutions and expedite a supervisory acquisition or merger, the commissioner has the right to waive any provisions of this act, or any other act, or any rules and regulations in an emergency situation.

This legislation requires the commissioner to make an annual report to the Assembly Banking and Insurance Committee and the Senate Labor, Industry and Professions Committee which sets forth the supervisory acquisitions and mergers which have taken place in the preceding year.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE:

MARCH 4, 1982

FOR FURTHER INFORMATION

CARL GOLDEN - DAVID DE MAIO

Governor Thomas H. Kean, at a public ceremony in his office, today signed two bills designed to boost New Jersey's sagging savings and loan industry by allowing the State Commissioner of Banking to authorize or direct acquisitions or mergers among commercial banks, savings banks and savings and loan associations.

The first bill, S-1076, sponsored by Senator John T. Gregorio (D-Union), provides for what are known as "supervisory acquisitions" and "supervisory mergers" under the following conditions: Where a savings institution, in the opinion of the Banking Commissioner, is unable to meet its liabilities within a 12-month period, or where its ratio of reserves to assets declines to a rate of two-percent over the same period, the Commissioner can authorize an acquisition or merger to ensure the viability of the faltering institution; Where those figures drop to six months and one-percent, respectively, the Commissioner may order such acquisition or merger.

Under the bill, the Commissioner must give priority to mergers or acquisitions between savings and loan associations of similar size before allowing or directing such moves by larger associations or commercial banks. Commercial banks were previously prevented from acquiring or merging with savings and loan associations.

Should a merger or acquisition take place, the bill provides that the absorbed company function as a subsidiary, continuing to operate under the same provisions to which it was originally organized. The bill protects the rights of all depositors in acquired or merged institution.

As an incentive for acquiring or merging with a faltering bank, the acquiring company would also be permitted to acquire or merge with a "healthy" institution on a one for one basis.

Legislation identical to S-1076--A-1042--was sponsored in the Assembly by Assemblyman Michael F. Aduato (D-Essex), and was substituted by the Senate bill.